

ZONING BOARD OF APPEALS MEETING
RONALD KOTAS – SEPTEMBER 18, 2012

The Zoning Board meeting was called to order by Chairman Mike DeWitt at 6:33 PM.

PRESENT: Mike DeWitt, Charles Gaffney, Brian Schumacher, Tom Kirszenstein, CEO Czechowski, Tom Steffan, Attorney.

Chairman DeWitt explained that a Public Hearing could not be held as it was determined that Ronald Kotas did not have legal standing to seek a variance for property he does not own.

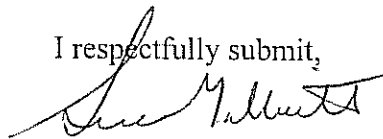
Tom Steffan, Attorney for the Hunt Estate presented the document from the Hunt estate giving him Power of Attorney. According to Steffan; "Paul Hunt a couple of years preceding his death, gave the property to Ronald Kotas, in exchange of having the parking lot paved".

CEO Czechowski explained that even if Attorney Steffan has Power of Attorney, the variance needs to be in respect to the Hunt estate. If divided, the subject parcel would be a non conforming lot, dUE to the shallow depth and would be in violation. If the Hunt estate wishes to apply for a variance, the ZBA could then re-visit the issue.

No action taken, will reschedule it when a new application is submitted to the ZBA.

Motion by Tom Kirszenstein, seconded by Brian Schumacher, to adjourn the meeting at 6:36 PM. Carried.

I respectfully submit,



Sue Galbraith, Clerk
Zoning Board of Appeals

ZONING BOARD OF APPEALS HEARING
JEFFREY GERHART – SEPTEMBER 18, 2012

The Zoning Board hearing was called to order by Chairman Mike DeWitt at 6:43 PM.

PRESENT: Mike DeWitt, Charles Gaffney, Brian Schumacher, Tom Kirszenstein, CEO Czechowski, Jeff and Caitlin Gerhart, Mr.& Mrs. Rodd Froebel, Mr. & Mrs. Carl Burkhardt and Mr. & Mrs. Bruce Sitzman.

The purpose of the hearing is for a variance from section 210-19A of the Code of the Village of Alden as it pertains to the raising of poultry in a R-C Zoning District, where the raising of poultry is only an allowed use in a R-O Zoning District.

MOTION by Tom Kirszenstein, seconded by Charles Gaffney, to enter into public hearing. Carried.

Caitlin Gerhart addressed the audience with the reasons for requesting the area variance. Citing health reasons and a very strict gluten free diet she must maintain, Caitlin felt this was an appropriate venue in a “right to farm community”. She uses the ducks and chickens for their eggs, and verified there will never be a rooster on the property. When she cleans up after them, she uses the manure for fertilizer for her organ produce in her garden. Caitlin stated, she had approached the neighbors before embarking on this venture, and there was no opposition. Caitlin appealed to the board, both as a mother and housewife, if no use variance could be granted, that a new cod would be sought to allow a few hens.

Several neighbors were in attendance to support the variance for the Gerharts. Mrs. Froebel, 13298 Railroad St., who has lived in the village for 24 years, felt chickens can’t hurt anyone, and reiterated the fact that the chickens and ducks has adequate room and shelter. Mr. Burkhardt 1377 Kellogg St., also agreed stating “ the animals are well taken care of , there is no odor and doesn’t have a problem with it, as long as there are no roosters”. Mr. Bruce Sitzman, 1380 Kellogg St., speaking as a resident and not a board member, enjoyed hearing the ducks quacking, and would support them on action to be taken to continue this project.

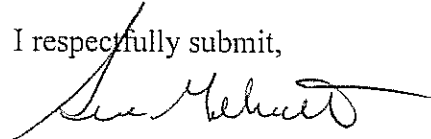
MOTION by Charles Gaffney, seconded by Tom Kirszenstein, to close the public hearing. Carried

MOTION by Tom Kirszenstein, seconded by Brian Schumacher, to table request and wait on rendering a decision until consulting with the Village Attorney, Chris Trapp.

An October 16, 2012 date is being considered for the next hearing. CEO Czechowski will inform the public after conferring with Attorney Trapp

MOTION by Charles Gaffney, seconded by Tom Kirszenstein, to adjourn the hearing at 6:58 PM. Carried

I respectfully submit,

A handwritten signature in cursive script, appearing to read "Sue Galbraith", written in black ink.

Sue Galbraith, Clerk
Zoning Board of Appeals

ZONING BOARD OF APPEALS HEARING
PHILLIP AZZARETTO – SEPTEMBER 18, 2012

The Zoning Board hearing was called to order by Chairman Mike DeWitt at 6:38 PM.

PRESENT: Mike DeWitt, Charles Gaffney, Brian Schumacher, Tom Kirszenstein, CEO Czechowski, and Phillip Azzaretto.

MOTION by Charles Gaffney, seconded by Brian Schumacher, to enter into public hearing. Carried

The purpose of the hearing is for a variance from section 210-27(D)(1) (c) of the Code of the Village of Alden as it pertains to the requirements for minimum distance between a dwelling and accessory structure when not attached. More specifically, a request to erect a porch roof one foot six inches (1'6") from the dwelling, in contradiction of the code requirements that a minimum distance of ten feet (10') is required

Phillip Azzaretto addressed the board on the issues, and the reasons for the request. CEO Czechowski read a letter from Tim and Sharon Baker, in favor of the variance. In attendance was neighbor Ken Buczkowski who felt Azzaretto was a neighbor in good standing, and should be granted the variance.

CEO Czechowski, informed the owners, that if this variance is approved, the porch could not be enclosed, or it would be in violation of the NYS Building Code.

MOTION by Tom Kirszenstein, seconded by Charles Gaffney, to close the public hearing. Carried

At this time Chairman DeWitt proceeded to the next procedure which is to review the five criteria for the requested variances.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the requested area variance? **The porch roof is in the rear yard and is mainly visible to neighbor, who has stated they do not object.**

2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue other than an area variance? **The purpose of constructing the porch roof is to protect the existing patio, hot tub and other items; the only alternative is to not build the structure, which would not protect the items as intended.**

3. Whether the requested area variance is substantial? **The request is for 8'4" of the required 10', which 87%: this is substantial.**

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? **The construction type and finishing materials are in line with other residential properties in the neighborhood, and many other properties have porch roofs as well.**

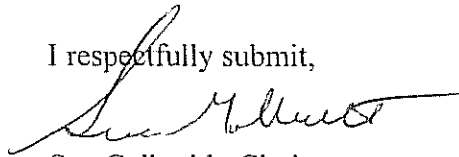
5. Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance? **Due to the existing location of the garage and topography of the lot, the only location to place the patio, hot tub and roof is on the north side as proposed: the footprint and elevation of the existing house compared to the existing garage makes it impractical to attach the porch roof to it.**

6. Whether it will create a hazard to health, safety or general welfare? **This type of construction exists throughout the Village and is in line with other properties in the neighborhood.**

MOTION by Brian Schumacher, seconded by Charles Gaffney, to grant Phillip Azzaretto's request for a variance from sections 210-27D (1)(c) of the Code of the Village of Alden, subject to the stipulation that it will never be enclosed as it pertains to property located at 975 Exchange St. Carried

MOTION by Charles Gaffney, seconded by Tom Kirszenstein, to adjourn the hearing at 6:43 PM. Carried

I respectfully submit,

A handwritten signature in cursive script, appearing to read "Sue Galbraith", written in dark ink.

Sue Galbraith, Clerk
Zoning Board of Appeals